

STATE OF ILLINOIS



ILLINOIS COMMERCE COMMISSION

April 19, 2000

Re: 00-0199

Eric Robertson
Lueders, Robertson & Konzen
1939 Delmar Ave.
Granite City, IL 62040

Chris Matthiesen
Mark Radtke
WPS Energy Services, Inc.
677 Baeten Rd.
Green Bay, WI 54304

Heather Jackson
& Christopher W. Zibart
Hopkins & Sutter
Three First National Plaza
Chicago, IL 60602-4205

E. Glenn Rippie
Commonwealth Edison Company
125 S. Clark St.
Chicago, IL 60603

James Hinchliff
Gerard T. Fox
Peoples Energy Service Corporation
130 E. Randolph Dr., 23rd Fl.
Chicago, IL 60601

Daniel D. McDevitt
Unicom Energy, Inc.
Gardner, Carton & Douglas
321 N. Clark St., Ste. 3400
Chicago, IL 60610

Dear Sir/Madam:

Enclosed are copies of the Memorandum and Order dated March 31, 2000, the Memorandum dated April 7, 2000 and the Memorandum with Intervening Petitioners dated April 11, 2000 from the Hearing Examiner to the Commission regarding recommended action at the Open Meeting on April 4, 2000, the Pre-Bench Meeting on April 11, 2000 and the Open Meeting on April 18, 2000.

Sincerely,

A handwritten signature in cursive script that reads "Donna M. Caton".

Donna M. Caton
Chief Clerk

DMC:jbm
Enclosure

Docket No.: 00-0199
Bench Date: 04-04-00
Deadline: 04-25-00

MEMORANDUM

TO: The Commission
FROM: Larry M. Jones, Hearing Examiner
DATE: March 31, 2000
SUBJECT: WPS Energy Services, Inc.

RECEIVED
MAR 31 2000

ILLINOIS COMMERCE COMMISSION
CHIEF CLERK'S OFFICE

Application for Certificate of Service Authority under Section 16-115 of the Public Utilities Act.

COMMENT: The deadline in this expedited ARES application proceeding is April 25, which is 45 days from the publication date. The matter is being placed on the agenda for April 4 in order to give the Commission the option of discussing it at that time if the Commission wishes to do so.

RECOMMENDATION: Entry of the attached draft order granting Applicant's request for an ARES certificate.

On March 2, 2000, WPS Energy Services, Inc. ("Applicant"), which is an affiliate of Wisconsin Public Service Corporation and Upper Peninsula Power Company, filed a verified application with the Commission requesting a certificate of service authority in order to become an alternative retail electric supplier ("ARES") in Illinois pursuant to Section 16-115 of the Public Utilities Act and 83 Ill. Adm. Code 451 ("Part 451").

In its request as amended, Applicant seeks authority for the sale of retail electricity and power to eligible nonresidential retail customers with total maximum electric demand of one megawatt ("MW") or more in the service areas of Commonwealth Edison Company, Central Illinois Public Service Company, Illinois Power Company and Central Illinois Light Company.

As noted above, Applicant is an affiliate of Wisconsin Public Service Corporation, of Green Bay, Wisconsin, and Upper Peninsula Power Company, of Houghton, Michigan. These two affiliates own and control electric transmission and distribution facilities for public use and for delivery of electricity to end users in defined geographic regions in Wisconsin and Michigan, respectively. Neither of the affiliate's electric service territories are open to retail electric competition and customer choice at this

time. Hence the reciprocity provisions of Section 16-115(d)(5) come into play. In this context, Applicant addressed the question of whether electric power and energy "can be physically and economically delivered" to the service areas of Applicant's affiliates by the Illinois utilities in whose service territories the Applicant plans to offer service. The specific language in Section 16-115(d)(5) is set forth on pages 3 and 4 of the attached draft order.

For purposes of demonstrating that the Illinois utilities cannot economically deliver power to the service areas of Applicant's affiliates, Applicant presented three analyses intended to compare the utility rates or costs in those affiliates' areas, on a \$/MWh basis, to the delivered cost of serving those customers by the Illinois utility. As explained more fully in the draft order, the first two analyses use market prices as proxies in the calculation of power and energy costs for Illinois utilities, while the third analysis is an incremental cost comparison. These analyses are described in Attachment C to the application, including Tables I, II and III therein, and in Applicant's March 21 response to the notice requesting additional information.

The draft order would find, based upon a review of the three cost comparison approaches provided by Applicant, and the results thereof, that it would not be economical, under any of the three methods of analysis presented, for the Illinois utilities in question to deliver electric power and energy to the service areas of Applicant's affiliates at this time. Accordingly, the draft order would find that the reciprocity provisions of Section 16-115(b)(5) should not preclude the Applicant from receiving an ARES certificate in this proceeding.

The attached draft order would grant an ARES certificate to Applicant for the services and areas requested by the Applicant.

The deadline for action is April 25, 2000, which is 45 days after the date of publication.

LMJ/lw

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

WPS Energy Services, Inc.	:	
	:	
Application for Certificate of	:	00-0199
Service Authority under Section	:	
16-115 of the Public Utilities Act.	:	

ORDER

By the Commission:

I. PRELIMINARY AND PROCEDURAL MATTERS

On March 2, 2000, WPS Energy Services, Inc. ("WPS" or "Applicant"), which is an affiliate of Wisconsin Public Service Corporation and Upper Peninsula Power Company, filed a verified application with the Commission requesting a certificate of service authority in order to become an alternative retail electric supplier ("ARES") in Illinois pursuant to Section 16-115 of the Public Utilities Act ("PUA" or "Act") and 83 Ill. Adm. Code 451 ("Part 451"). On March 10, 2000, notice of this application was published in the official state newspaper pursuant to Section 16-115(b) of the Act and 83 Ill. Adm. Code 451.30. In a written notice, the Hearing Examiner requested additional information relating to various provisions of Part 451 and to matters addressed in the application. On March 21, 2000, Applicant filed a response ("Response") thereto. A verification for the Response was filed on March 30, 2000. The Hearing Examiner's proposed order was served on the Applicant. On March 30, 2000, Applicant filed one exception relating to language in the last full sentence on page 6 of the proposed order. In view thereof, this sentence, which now appears in the first paragraph on page 7, has been reworded.

II. AUTHORITY SOUGHT BY APPLICANT

Applicant initially requested authority for the sale of retail electricity and power to eligible nonresidential retail customers with total maximum electric demand of 1 megawatt ("MW") or more throughout the State of Illinois. Applicant subsequently modified the territorial portion of its request, and now seeks authority to serve such customers in the service areas of Commonwealth Edison Company ("ComEd"), Central Illinois Public Service Company, Illinois Power Company and Central Illinois Light Company.

At this time, Applicant does not seek authority to provide single billing services to customers. Therefore, Applicant did not provide financial information pertaining to Subpart F of Part 451.

III. REQUIREMENTS FOR ALL APPLICANTS UNDER SECTION 16-115 OF THE ACT AND SUBPART A OF 83 ILL. ADM. CODE 451

Applicant is a corporation created under the jurisdiction of the State of Wisconsin. A Certificate of Authority from the Office of the Secretary of State, State of Illinois was provided.

Applicant states that it does not own, control or operate generation, transmission or distribution facilities within the State of Illinois. No further demonstration of compliance with the requirements of Section 451.20(f)(2) has been made. Accordingly, Applicant's employees are not permitted to perform such functions, and other entities are not permitted to perform such functions pursuant to contractual arrangements with the Applicant.

Applicant states that it offers power and energy supply services to wholesale and retail participants in the non-regulated energy marketplace. In addition, Applicant states that electric and natural gas marketing services, real time energy management services, project management and consulting services are offered.

Applicant has provided notice to each Illinois electric utility in whose service area Applicant intends to provide service.

Applicant has certified that it will comply with all applicable regulations; that it will provide service only to retail customers eligible to take such services; that it will comply with informational and reporting requirements established by Commission rule; that it will comply with informational and reporting requirements pursuant to Section 16-112 of the Act; and that it will comply with all other applicable laws, regulations, terms and conditions required to the extent they have application to the services being offered by Applicant as an alternative retail electric supplier.

Applicant has agreed to submit good faith schedules of transmission and energy in accordance with applicable tariffs. Applicant has agreed to adopt and follow rules relating to customer authorizations, billing records and retail electric services. Applicant has agreed to confidential treatment of customer data. Applicant is not currently authorized to operate as an ARES in the State of Illinois.

Applicant is an affiliate of Wisconsin Public Service Corporation, of Green Bay Wisconsin, and Upper Peninsula Power Company, of Houghton Michigan. These utilities own and control electric transmission and distribution facilities for public use and for delivery of electricity to end users in defined geographic regions in Wisconsin and Michigan. Applicant represents that it is in compliance with the reciprocity-related requirements of Section 16-115(d)(5) of the Act; will remain in compliance with such requirements; and will annually certify such compliance to the Commission within 30

days after the anniversary date of its certification. The reciprocity issue is addressed below.

IV. TECHNICAL, FINANCIAL AND MANAGERIAL REQUIREMENTS OF SECTION 16-115 AND SUBPART B OF PART 451

Applicant asserts that it meets the financial qualifications set forth in Section 16-115(d)(1). For purposes of demonstrating compliance with the provisions of Section 451.110(a) of Part 451, a copy of Applicant's revised license and permit bond was provided as Exhibit 3 to Applicant's Response filed March 21, 2000. The authority granted in this order is subject to the condition that Applicant uses the revised license and permit bond as shown in Exhibit 3.

With respect to the requirements of Section 451.110(c)(2) of Part 451, Applicant submitted a copy of a borrowing agreement in the amount of \$13,000,000 and a ratings report for the lender, as contained in Attachment E to the application.

Applicant represents that it meets the technical and managerial qualifications set forth in Section 16-115(d)(1) of the Act and Sections 451.120 and 451.130 of Part 451. Applicant identified the personnel who purportedly meet these qualifications, and Applicant provided biographical information for these individuals.

V. RECIPROCITY ISSUES UNDER 16-115(d)(5)

A. Background

Applicant states that Wisconsin Public Service Corporation ("WPSC") and Upper Peninsula Power Company ("UPPCO") are affiliates of Applicant. Each of these companies, according to Applicant, owns and controls electric transmission and distribution facilities for public use and for delivery of electricity to end-use customers in a defined geographic region. (Application, Attachment C, p. 1) Applicant indicates that neither of their electric service territories are open to retail electric competition and customer choice at the time of its application. Hence the reciprocity provisions of Section 16-115(d)(5) come into play.

Section 16-115 of the Act states in part:

(d) The Commission shall grant the application for a certificate of service authority if it makes the findings set forth in this subsection based on the verified application and such other information as the applicant may submit:

...

(5) That if the applicant, its corporate affiliates or the applicant's principal source of electricity (to the extent such source is known at the time of the application) owns or controls facilities, for public use, for the transmission or distribution of electricity to end-users within a defined geographic area to which electric power and energy can be physically and economically delivered by the electric utility or utilities in whose service area or areas the proposed service will be offered, the applicant, its corporate affiliates or principal source of electricity, as the case may be, provides delivery services to the electric utility or utilities in whose service area or areas the proposed service will be offered that are reasonably comparable to those offered by the electric utility, and provided further, that the applicant agrees to certify annually to the Commission that it is continuing to provide such delivery services and that it has not knowingly assisted any person or entity to avoid the requirements of this Section. For purposes of this subparagraph, "principal source of electricity" shall mean a single source that supplies at least 65% of the applicant's electric power and energy, and the purchase of transmission and distribution services pursuant to a filed tariff under the jurisdiction of the Federal Energy Regulatory Commission or a state public utility commission shall not constitute control of access to the provider's transmission and distribution facilities;

Applicant states that its understanding of Section 16-115(d)(5) of the Act is that utilities who have opened their service areas to competition in Illinois should be assured of having comparable rights to compete in the service areas controlled by utility affiliates of the ARES applicant. This right "to compete," according to Applicant, applies to areas where "electric power and energy can be physically and economically delivered" by the Illinois companies. Applicant indicates that the primary basis for its certification that it complies with this reciprocity requirement is that power and energy can not be "economically delivered" by utilities in Illinois to retail customers in the service areas of Applicant's utility affiliates. In addition, Applicant asserts that until significant upgrades are made to the Illinois-Wisconsin transmission interface, power and energy can not be "physically delivered" from Illinois to WPSC and UPPCO retail customers. (Id. at 2-3)

B. Economic Delivery

1. Overview

To determine if Illinois utilities can economically deliver power and energy to retail customers in the WPSC and UPPCO service areas, Applicant asserts that the utility rates in these areas must be compared to total electric supply and delivery costs of serving these customers from an Illinois energy source. (Id. at 3) Applicant claims that, for two reasons, the most reasonable affiliate for comparison purposes is WPSC. Applicant says that in addition to wheeling charges to move power and energy from

Illinois to WPSC, two additional wheeling charges are needed to move power and energy to UPPCO. In addition, Applicant asserts that the transmission system to upper Michigan simply does not allow for firm imports to the UPPCO service area from Wisconsin due to physical constraints on the system. (Id. at 4-5)

Applicant says that because Section 16-115(d)(5) does not specify a comparison method or definition of economic delivery, it has developed three methods for making the above comparison. The three comparison options developed by Applicant are: a) Power Purchase Option ("PPO") comparison; b) Market Index comparison; and c) Incremental cost comparison. (Id. at 3) These comparisons for ComEd are shown in Tables I, II and III in Attachment C of the application.

Applicant states that the total cost of the Illinois option can be compared to the retail customer rate that most fairly and appropriately represents equivalent costs. Applicant says that since it is applying to serve customers with demand of one megawatt and greater, comparisons are made for this customer class only. Applicant states that the basic components of each of the three comparisons, relating to the Illinois option, are: a) cost of producing or purchasing power and energy in Illinois; b) cost of wheeling over the alternate transmission paths from Illinois to WPSC; c) cost of delivery through the WPSC transmission and distribution system to end-users; and d) total system losses. (Id. at 3-4)

2. PPO, Market Index and Incremental Cost Comparisons for ComEd

For the PPO comparison, shown in Table I of Attachment C, Applicant used the Load Weighted Average Market Value ("LWAMV") price from ComEd's Rider PPO as the proxy for the cost of producing or purchasing power and energy in Illinois. Applicant asserts that this is the price at which ComEd can sell its freed-up generation and is a reasonable proxy for the price of generation that can be sold in Wisconsin. Applicant assumed that the system average load factor for large industrial customers on the WPSC system is roughly equivalent to that on the ComEd system. For purposes of calculating capacity, distribution, and transmission charges, Applicant assumed an 80% load factor. (Id. at 5-6)

Table I of Attachment C to the Application purports to show that Applicant's first proxy for the total cost of producing or purchasing power and energy in Illinois and transporting it to a retail industrial customer in the WPSC service territory is \$44.60 to \$46.20 per megawatt-hour while the average industrial rate for WPSC is \$32.10 per megawatt-hour. Applicant asserts that the results of this analysis demonstrate that Illinois companies cannot competitively or economically serve industrial loads in the WPSC service areas. (Id. at 6)

For the second comparison, the Market Index comparison as shown in Table II of Attachment C, Applicant used a weekly index for on-peak financially firm energy and

off-peak published by Power Markets Week ("PMW") for the ComEd Hub and MAIN as the proxy for the cost of producing or purchasing power and energy in Illinois. Applicant asserts that as a licensed wholesale energy marketer, it is often searching the electric markets in the Midwest for supply and price information and that PMW is a commonly used source for power and energy information in the industry. (Id. at 7)

Using the 1999 annual average of the weekly peak index for the ComEd Hub and a MAIN average of off-peak prices, Applicant calculated an average market price for power and energy. Because off-peak figures are not listed at the ComEd, Hub Applicant substituted MAIN averages. For the capacity component, Applicant used \$5/kW-month as a proxy for the marginal cost of capacity. (Id.) Applicant derived this value from the 1999 Neutral Fact Finder's Report. (Response , p. 5)

The cost of wheeling from ComEd to WPSC, the cost of delivery through the WPSC transmission and distribution system to end-users and total system losses were added to the Market Index based proxy for the cost of producing or purchasing power and energy in Illinois resulting in Market Index comparison values of \$38.70 to \$40.40 per megawatt-hour. Table II of Attachment C to the Application shows this result which is compared to WPSC's average industrial rate, \$32.10 per megawatt-hour, the same comparison used in Table I. Applicant asserts that the results of this analysis, as well as that shown in Table I, demonstrate that Illinois companies cannot reasonably and economically deliver power and energy from Illinois to the service areas of Applicants' affiliates. (Application, Attachment C, p. 8)

Applicant states that its third analysis, the incremental cost analysis, provides the lowest estimate of the price of power and energy. This analysis used a simple system-wide annual average of on and off peak generation on the ComEd system as the proxy for the cost of producing or purchasing power and energy in Illinois. Applicant used ComEd's Rider 4 tariff for Parallel Operation of Customer Generating Facilities as the source for the energy component and a \$5/kW-month marginal cost of capacity. This is the same proxy for the marginal cost of capacity that was used to develop Table II. (Id. at 5)

The cost of wheeling from ComEd to WPSC, the cost of delivery through the WPSC transmission and distribution system to end-users and total system losses were added to the incremental cost based proxy for the cost of producing or purchasing power and energy in Illinois, producing an incremental cost comparison value of \$32.70 to \$34.30 per megawatt-hour. For purposes of comparison, Applicant summed the WPSC simple system average energy cost for industrial customers, the same transmission and distribution costs used in Tables I and II, and the \$5/kW-month marginal cost of capacity discussed above. This produced what Applicant referred to as the WPSC equivalent power and energy cost of \$31.70 per megawatt-hour as shown in Table III of Attachment C to the application. (Response p. 6) As noted above, the WPSC rate used for comparison purposes in Tables I and II is the average industrial rate of \$32.10 per MWh.

Applicant alleges that while numerically the incremental cost comparison provides the best opportunity to serve retail customers in the WPSC territory, a product based on this comparison is not economically marketable. Applicant asserts that market prices are much better proxies for the marginal cost of serving additional load, such as retail load in Wisconsin, than are the costs from ComEd's Rider 4. Applicant further asserts that it does not make reasonable economic sense to sell energy on a firm long term basis to retail industrial customers in Wisconsin, when it can be sold for higher wholesale and retail prices in Illinois. (Application, Attachment C, pp. 9-10; Response, p. 8)

3. Other Utilities

With regard to other Illinois electric utilities in whose service territories Applicant seeks certification, it appears Applicant believes the analyses in Tables I and II are equally applicable to these utilities. Applicant indicates that the primary difference would be the additional wheeling costs these utilities would incur to move power further through Illinois and into Wisconsin. (Application, Attachment C, p.4) In its Response filed March 21, 2000, Applicant provided Table III, incremental cost comparison, restated for each Illinois electric utility service territory for which it seeks certification.

For Illinois Power Company, Applicant's analysis purportedly indicates that the total incremental cost comparison is \$40.18 to \$41.83 per megawatt-hour. Applicant's analysis for Central Illinois Public Service Company purportedly indicates the total incremental cost comparison is \$36.48 to \$38.13 per megawatt-hour. For Central Illinois Light Company, Applicant's analysis purports to show that the total incremental cost comparison is \$41.40 to \$43.05 per megawatt-hour. In each case, Applicant compared the incremental cost comparison figures to \$31.70 per megawatt-hour, which it characterizes as the WPSC equivalent power and energy cost. (Response, Exhibit 11) Applicant says that these results support its assertion that power and energy cannot be economically delivered by Illinois utilities to WPSC retail customers. (*Id.* at 8) The Commission observes, as noted above, that the WPSC rate used for comparison purposes in Tables I and II is the average industrial rate of \$32.10 per MWh.

C. Physical Delivery

Applicant asserts that power and energy cannot be physically delivered to the service areas of its utility affiliates until major upgrades to the Illinois - Wisconsin transmission systems are complete. Applicant submits that an upgrade of the 345 kilovolt ("kV") line between the Lockport and Lombard substations is scheduled for completion by the summer of 2001. Applicant states that the Mid-America Interconnect Network ("MAIN") firm Available Transfer Capability ("ATC") calculations and all transmission requests made by WPSC for the summer of 2000 have not assumed completion of this line. Applicant avers that until this line is completed, the system between Illinois and northeast Wisconsin will be highly constrained and will not allow

reasonable physical transfer of power and energy to serve firm retail loads on a year round basis. (Application, Attachment C, pp. 11-14; Response, pp. 7-8)

Applicant believes the existing transmission system does not allow Illinois companies to serve firm energy requirements of an open access retail market in northeast Wisconsin. Due to the system constraints and generating capacity shortfalls that exist in northeastern Wisconsin, Applicant asserts that non-firm service from Illinois is also not a viable product since retail loads require high degrees of reliability. Applicant states that according to MAIN Historical Transmission Loading Relief data through the third quarter of 1999, over 100 incidents of line loading relief were called that directly limited transactions on the southern and western interface with northeast Wisconsin. These relief calls, according to Applicant, prevent starting any new non-firm transactions from Illinois to WPSC or UPPCO and cut any existing non-firm service as firm service comes on. Retail customers, Applicant claims, generally can not take the risk of such frequent cuts in transmission service. (Id.)

Applicant states that constraints on the transmission system lead to firm ATC ratings well below zero in summer peak months. ATC ratings reflect physical capability of the system, less reservations, capacity benefit margins, and transmission reserve margins. (Application, Attachment C, p. 13) However, in its Response, Applicant indicates that despite transmission constraints, WPSC has arranged for firm transmission service from the ComEd control area to the WPSC control area in 1998, 1999, and 2000. (Response, p. 3) Applicant states that while WPSC would not wish to assign transmission rights to others, WPSC knows of no reason why it could not make arrangements to do so if it so desired. (Id. at 4)

Once the Lockport to Lombard upgrade is completed and factored into MAIN power transfer calculations, Applicant says the physical capability will need to be reevaluated. South to north transfer capability will improve between Illinois and Wisconsin but some restrictions will continue due to loop flow on the system, according to Applicant. Applicant states that the annual re-certification process required of an ARES applicant will allow for future review of all the factors effecting access, including physical capability, as it relates to Applicant's reciprocity compliance. (Application, Attachment C, p. 11)

D. Conclusions

As explained above, Applicant is an affiliate of Wisconsin Public Service Corporation in Wisconsin, and Upper Peninsula Power Company in Michigan. These two affiliates own and control electric transmission and distribution facilities for public use and for delivery of electricity to end users in defined geographic regions in Wisconsin and Michigan. Neither of the affiliate's electric service territories are open to retail electric competition and customer choice at this time. Hence the reciprocity provisions of Section 16-115(d)(5) come into play. In this context, the question is whether electric power and energy "can be physically and economically delivered" to

the service areas of Applicant's affiliates by the Illinois utilities in whose service territories the Applicant plans to offer service.

For purposes of demonstrating that the Illinois utilities cannot economically deliver power to the service areas of Applicant's affiliates, Applicant presented three analyses intended to compare the utility rates or costs in those affiliates' areas, on a \$/MWh basis, to the delivered cost of serving those customers by the Illinois utility. As described more fully above, the first two analyses use market prices as proxies in the calculation of power and energy costs for Illinois utilities, while the third analysis is an incremental cost comparison.

In the Commission's opinion, both types of analyses, including the incremental cost comparison, are relevant for purposes of assessing the economic delivery standard in Section 16-115(d)(5). Further, in the incremental cost analysis, the Illinois utility's costs should be compared not only to WPSC's incremental cost, but also to WPSC's tariffed industrial rates. As noted above, Applicant has claimed that given current market prices, Illinois utilities could not reasonably rely on incremental cost comparisons in determining whether power could be delivered to Wisconsin on an economic basis. On this point, the Commission believes the assertions of the Applicant are insufficient to warrant a finding that Illinois utilities could not reasonably utilize an incremental cost analysis in determining whether they could deliver power to service areas in Wisconsin on an economic basis within the meaning of the reciprocity provisions of Section 16-115(d)(5).

In any event, the Commission has reviewed the three cost comparison approaches provided by Applicant, and the results thereof, which are summarized above. Based on the information presented, the Commission finds that it would not be economical, under any of the three methods of analysis presented, for the Illinois utilities in question to deliver electric power and energy to the service areas of Applicant's affiliates at this time. Accordingly, the reciprocity provisions of Section 16-115(b)(5) should not preclude the Applicant from receiving an ARES certificate in this proceeding.

With regard to Applicant's assertions that electric power and energy cannot be physically delivered to northeast Wisconsin, the Commission is not persuaded by Applicant's analysis. While Applicant provided quantitative data regarding ATC ratings, the Commission notes that these ratings explicitly consider transmission reservations. As explained above, information provided in Applicant's Response indicates that one of its affiliates, WPSC, has in fact arranged for firm transmission service from the ComEd control area to the WPSC control area in 1998, 1999, and 2000.

The information provided by Applicant demonstrates there are constraints on transmission capability between Illinois and northeastern Wisconsin; however, this does not constitute a demonstration that electric power and energy cannot be physically delivered. Nevertheless, given the Commission's conclusions above regarding the

inability to economically delivery power to the service areas of Applicant's affiliates at this time, a showing that electric power and energy cannot be physically delivered by Illinois utilities to the service areas of Applicant's affiliates is unnecessary.

VI. COMMISSION'S CONCLUSIONS AND CERTIFICATE OF SERVICE AUTHORITY

The Commission has reviewed the application and attachments along with the supplementary information provided by Applicant. To the extent authority is granted herein, the Commission finds that the application is in order and satisfies the requirements of the Public Utilities Act and Part 451. The Commission concludes, therefore, that a certificate of service authority as an ARES should be granted to the Applicant, and that the certificate should read as follows:

CERTIFICATE OF SERVICE AUTHORITY

IT IS CERTIFIED that WPS Energy Services, Inc. is granted service authority to operate as an Alternative Retail Electric Supplier as follows:

SERVICES TO BE PROVIDED: (1) The sale of electricity and power.

CUSTOMERS TO BE SERVED: All eligible nonresidential retail customers with total maximum electric demand of 1 MW or more.

GEOGRAPHIC REGION(S) SERVED: The service territories of Commonwealth Edison Company, Central Illinois Public Service Company, Illinois Power Company and Central Illinois Light Company.

VII. FINDINGS AND ORDERING PARAGRAPHS

The Commission, having reviewed the entire record, is of the opinion and finds that:

- (1) Applicant, which is organized under the laws of the State of Wisconsin, and is authorized to do business in the State of Illinois, seeks authority to become an Alternative Retail Electric Supplier under Section 16-115 of the Act;
- (2) the Commission has jurisdiction of the parties hereto and the subject matter hereof;

- (3) the facts recited and conclusions reached in the prefatory portion of this order are supported by the record and are hereby adopted as findings of fact;
- (4) as required by 220 ILCS 16-115(d)(1), Applicant possesses sufficient technical, financial and managerial resources and abilities to provide power and energy to eligible non-residential retail customers throughout the area certificated herein;
- (5) to the extent authority is granted herein, Applicant has complied with 220 ILCS 16-115(d)(2) through (5) and (8);
- (6) Applicant should be granted the Certificate of Service Authority set out in Section VI of this Order and shall thereafter comply with all applicable Commission rules and orders and any applicable amendments thereto.

IT IS THEREFORE ORDERED by the Commission that Applicant is hereby granted the Certificate of Service Authority set out in Section VI of this Order, subject to the conditions set forth herein.

IT IS FURTHER ORDERED that Applicant shall comply with all applicable Commission rules and orders now in effect and as hereafter amended.

IT IS FURTHER ORDERED that, subject to the provisions of Section 10-110 of the Public Utilities Act and 83 Ill. Adm. Code 200.880, this Order is final; it is not subject to the Administrative Review Law.

By order of the Commission this 4th day of April, 2000.

Chairman

Docket No.: 00-0199
Pre-Bench Date: 04-11-00
Deadline: 04-24-00

MEMORANDUM

TO: The Commission
FROM: Larry Jones, Hearing Examiner
DATE: April 7, 2000
SUBJECT: WPS Energy Services, Inc.

RECEIVED
APR 10 2000

ILLINOIS COMMERCE COMMISSION
CHIEF CLERK'S OFFICE

Application for Certificate of Service Authority under Section 16-115 of the Public Utilities Act.

COMMENT: Under a cover memorandum dated March 31, 2000, a draft order in this matter was before the Commission at its April 4 meeting. The deadline in this expedited ARES application proceeding is April 24, which is 45 days from the publication date.

INTERVENTION: An intervening petition was filed by Peoples Energy Services Corporation, which holds a certificate as an ARES.

RECOMMENDATION: Entry of the previously distributed draft order granting Applicant's request for an ARES certificate.

In this proceeding, WPS Energy Services, Inc. ("Applicant"), which is an affiliate of Wisconsin Public Service Corporation and Upper Peninsula Power Company, filed a verified application with the Commission requesting a certificate of service authority in order to become an alternative retail electric supplier ("ARES") in Illinois pursuant to Section 16-115 of the Public Utilities Act and 83 Ill. Adm. Code 451 ("Part 451").

The deadline for action is April 24, 2000, which is 45 days after the date of publication. Action within 45 days is required under Section 16-115(b).

In its request as amended, Applicant seeks authority for the sale of retail electricity and power to eligible nonresidential retail customers with total maximum electric demand of one megawatt ("MW") or more in the service areas of Commonwealth Edison Company, Central Illinois Public Service Company, Illinois Power Company and Central Illinois Light Company.

As noted above, Applicant is an affiliate of Wisconsin Public Service Corporation, of Green Bay, Wisconsin, and Upper Peninsula Power Company, of Houghton, Michigan. These two affiliates own and control electric transmission and distribution facilities for public use and for delivery of electricity to end users in defined geographic regions in Wisconsin and Michigan, respectively. Neither of the affiliates' electric service territories are open to retail electric competition and customer choice at this time. Hence the reciprocity provisions of Section 16-115(d)(5) come into play. In this context, Applicant addressed the question of whether electric power and energy "can be physically and economically delivered" to the service areas of Applicant's affiliates by the Illinois utilities in whose service territories the Applicant plans to offer service. The specific language in Section 16-115(d)(5) is set forth on pages 3 and 4 of the previously distributed draft order.

For purposes of demonstrating that the Illinois utilities cannot economically deliver power to the service areas of Applicant's affiliates, Applicant presented three analyses intended to compare the utility rates or costs in those affiliates' areas, on a \$/MWh basis, to the delivered cost of serving those customers by the Illinois utility. As explained more fully in the draft order, the first two analyses use market prices as proxies in the calculation of power and energy costs for Illinois utilities, while the third analysis is an incremental cost comparison. These analyses are described in Attachment C to the application, including Tables I, II and III therein, and in Applicant's March 21 response to the notice requesting additional information.

The draft order would find, based upon a review of the three cost comparison approaches provided by Applicant, and the results thereof, that it would not be economical, under any of the three methods of analysis presented, for the Illinois utilities in question to deliver electric power and energy to the service areas of Applicant's affiliates at this time. Accordingly, the draft order would find that the reciprocity provisions of Section 16-115(d)(5) should not preclude the Applicant from receiving an ARES certificate in this proceeding.

On April 4, 2000, Peoples Energy Services Corporation, which holds a certificate as an ARES, filed an intervening petition. As discussed at the April 4 Commission meeting, Section 16-115(d) provides, in part, "The Commission shall grant the application for a certificate . . . if it makes the findings set forth in this subsection based on the verified application and such other information as the applicant shall submit. . . ."

The previously distributed draft order would grant an ARES certificate to Applicant for the services and areas requested by the Applicant.

LMJ/lw

Docket No.: 00-0199
Bench Date: 04-18-00
Deadline: 04-24-00

MEMORANDUM

TO: The Commission
FROM: Larry M. Jones, Hearing Examiner
DATE: April 11, 2000
SUBJECT: WPS Energy Services, Inc.

Application for Certificate of Service Authority under Section 16-115 of the Public Utilities Act.

COMMENT: Copies of intervening petitions filed on April 4 by Peoples Energy Services Corporation, which holds a certificate as an ARES, and on April 11 by Commonwealth Edison Company, are attached.

As requested by Commissioners at today's pre-bench, copies of intervening petitions filed by Peoples Energy Services Corporation, which holds a certificate as an ARES, and by Commonwealth Edison Company, are attached.

The application in this matter will be before the Commission for further consideration and/or action at its meeting on April 18. The deadline is April 24, which is 45 days from the date of publication.

LMJ/lw

RECEIVED
APR 11 2000

ILLINOIS COMMERCE COMMISSION
CHIEF CLERK'S OFFICE

**OFFICIAL FILE
ILLINOIS COMMERCE COMMISSION**

COPY

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

ILLINOIS
COMMERCE COMMISSION

APR 4 10 21 AM '00

CHIEF CLERK'S OFFICE

WPS Energy Services, Inc.

)
)
)
)
)
)

Docket No. 00-0199

Petition for Certification as an
Alternative Retail Electric Supplier

**PETITION OF PEOPLES ENERGY SERVICES CORPORATION
FOR LEAVE TO INTERVENE IN OPPOSITION TO PETITION**

To the Hearing Examiner:

Pursuant to 83 Illinois Administrative Code Section 200.200, Peoples Energy Services Corporation ("PE Services"), by one of its attorneys, Gerard T. Fox, hereby petitions this Commission for leave to intervene in the above-entitled cause. PE Services requests that the Commission deny the petition of WPS Energy Services, Inc. ("WPS") for certification as an Alternative Retail Electric Supplier ("ARES") due to its failure to meet the reciprocity requirements of the Public Utilities Act (the "Act") set forth in Section 16-115 (d). In support of this petition, PE Services states as follows:

1. PE Services is a corporation organized and existing under the laws of the State of Illinois and is principally in the business of providing energy services to retail customers. This currently includes sales of electricity and of natural gas and natural gas management services to Illinois commercial and industrial end users. The Commission certified PE Services as an ARES, as that term is defined in Section 16-102 of the Public Utilities Act, in Docket 99-0432 on September 14, 1999.

2. The purpose of this proceeding is to consider whether WPS Energy, Inc. should be certified as an ARES pursuant to Section 16-115 of the Act. PE Services

believes that WPS should not be certified as an ARES because it fails to meet the reciprocity requirements set forth in Section 16-115 (d)(5).

3. Section 16-115 (d) (5) of the Act applies to applicants which have electric utility affiliates. Generally, under that section, the Commission can not grant an application for ARES certification to an entity that has an electric utility affiliate operating in a jurisdiction which is not on the same level of open access as Illinois. WPS admits it has electric utility affiliates operating in Wisconsin and Michigan. (Attachment C to Application.) Moreover, WPS admits that Wisconsin and Michigan are not open to electric retail competition. (Attachment C to Application.)

4. Section 16-115 (d) makes available an exception to the general rule that the Commission can not grant ARES certification to an affiliate of electric utilities operating in states that do not allow retail competition. The exception allows the Commission to grant certification where the applicant demonstrates that the Illinois electric utilities in whose service territories it seeks to compete cannot physically and economically deliver electric power and energy into the service territories of the applicant's electric utility affiliates. In its original application, WPS sought certification to serve retail customers (one megawatt or greater) throughout the state of Illinois, alleging that Illinois electric utilities could not physically and economically deliver electric power and energy to the service territories of WPS' electric utility affiliates.

5. WPS' self-serving allegation was questioned by the Hearing Examiner in this proceeding in a Notice of Hearing Examiner's Ruling, dated March 13, 2000. Among other things, the Notice of Hearing Examiner's Ruling requested information relating to the ability of Illinois electric utilities to physically and economically deliver electric power and energy to WPS' electric utility affiliates.

6. In its Response to Notice of Hearing Examiner's Ruling, WPS retrenched from its original position. WPS withdrew its application for ARES certification in the

service territories of Interstate Power, South Beloit, MidAmerican Energy, Ameren UE, and Mount Carmel, acknowledging that it could not demonstrate it could meet the reciprocity requirements with respect to those Illinois electric utilities. WPS continues to assert that it meets the reciprocity requirements with respect to the remaining Illinois electric utilities. However, WPS' own Response to the Hearing Examiner's Ruling demonstrates that it does not meet the reciprocity requirements of the Act.

7. With respect to the physical ability to deliver electric power and energy, WPS admits that one of its electric utility affiliates, Wisconsin Public Service Corporation, has arranged for firm transmission service from Commonwealth Edison Company's ("ComEd") control area to its own control area for the last three years and, in fact, has purchased substantial amounts of energy from ComEd (Response, p. 3; Response, Ex. 4).

8. With respect to the economic ability to deliver electric power and energy, WPS' Response to the Hearing Examiner's Ruling offers more of the self-serving analysis set forth in its Application. For example, WPS states, on page 5 of its Response: "If the price is the market price of capacity, it does not make sound economic sense for ComEd to sell below market price just to compete in Wisconsin." The time constraints of ARES certification proceedings and the limits placed on potential intervenors, *i.e.* the requirement that the Commission base its decision on information provided by the Applicant, do not make it possible to contest directly the showings of an ARES application. However, it strains credibility to argue that an Illinois electric utility cannot economically deliver electric energy and power to the service territories of WPS' electric utility affiliates at any time, whether peak or non-peak, summer or non-summer. In fact, ComEd has very low off-peak prices and WPS' own response to the Hearing Examiner's Ruling demonstrates that WPS' electric utility affiliate has made substantial wholesale purchases from ComEd (Response, Ex. 4).

Moreover, it is obvious it should not be up to WPS to make economic decisions for Illinois electric utilities. PE Services contends that WPS has not met the Act's requirement that it demonstrate that Illinois utilities cannot economically deliver electric power and energy to the service territory of its Wisconsin electric utility affiliate.

9. For policy reasons, the Commission should require a compelling showing that applicants for ARES certification meet the reciprocity requirements of the Act. For competition to thrive, there must be an ability to compete throughout the region, not just in one state. There will be no impetus for neighboring states such as Wisconsin, Michigan and Indiana to open their states to competition if Wisconsin, Michigan and Indiana companies can compete in Illinois, but Illinois companies cannot compete in their states. The reciprocity provisions of the Act were put there for a reason by the General Assembly. Granting WPS' application, based on the inadequate showings made by WPS, would make those reciprocity provisions meaningless. Moreover, because of the limitations placed on a potential intervenor's ability to contest an ARES certification—the requirement that the Commission base its decision on information provided by the Applicant—it is crucial that that information be compelling, not simply self-serving.

10. PE Services has an interest in this proceeding, and its interest is not adequately represented by any party to this proceeding.

WHEREFORE, PE Services prays that the Commission grant it leave to intervene and that it deny certification to WPS.

Dated at Chicago, Illinois this 3rd day of April, 2000.

Respectfully submitted,

PEOPLES ENERGY SERVICES CORPORATION

By Bobbi Welch
Bobbi Welch
Director of Retail Power Marketing
Peoples Energy Services Corporation

James Hinchliff
Gerard T. Fox
Attorneys for
Peoples Energy Services Corporation
23rd Floor
130 East Randolph Drive
Chicago, Illinois 60601
(312) 240-4341
facsimile: (312) 240-4486
e-mail: gtfox@pecorp.com

- STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

VERIFICATION

I, Bobbi Welch, being first duly sworn, depose and say that I am the Director of Retail Power Marketing for Peoples Energy Services Corporation, that I have read the foregoing Petition of Peoples Energy Services Corporation for Leave to Intervene by me subscribed, and I know the contents thereof, and that the statements therein contained are true to the best of my knowledge, information and belief.

By Bobbi Welch
 Bobbi Welch
 Peoples Energy Services Corporation

SUBSCRIBED and **SWORN** to before me
this 3rd day of April 2000

Ann T. Browne
Notary Public



CERTIFICATE OF SERVICE

I hereby certify that I have this day served the Petition of Peoples Energy Services Corporation for Leave to Intervene by placing a copy thereof in the United States mail with first class postage affixed, addressed to each of the parties of record in Ill.C.C. Docket No. 00-0199.

Dated at Chicago, Illinois this 3rd day of April 2000.

By Gerard T. Fox
Gerard T. Fox
An Attorney for
Peoples Energy Services Corporation

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Apr 11 11 01 AM '00

WPS ENERGY SERVICES, INC.

CHIEF CLERK'S OFFICE

Application for Certificate of Service
Authority under Section 16-115 of
the Public Utilities Act.

Docket No. 00-0199

**PETITION FOR LEAVE TO INTERVENE OF
COMMONWEALTH EDISON COMPANY**

Commonwealth Edison Company ("ComEd"), by its attorneys, Hopkins & Sutter, hereby petitions for leave to intervene and participate as a party in this proceeding pursuant to 83 Ill. Admin. Code § 200.200. In support of its petition to intervene, ComEd states as follows:

1. ComEd is a public utility company engaged in generation, transmission, distribution and sale of electricity for use in Illinois.

2. On March 2, 2000, WPS Energy Services, Inc. ("WPS-ESI") filed an application for a Certificate of Service Authority under Section 16-115 of the Public Utilities Act. In its application, WPS-ESI indicated its intent to offer power and energy supply to serve non-residential retail customers in the entire State of Illinois, including customers in the territory which ComEd provides generation, transmission, distribution and sale of electricity for use in Illinois.

3. As an Illinois public utility engaged in the generation, transmission, distribution and sale of electricity in the service territory in which WPS-ESI seeks to serve customers, ComEd has a substantial interest in, and is likely to be affected by, any decision made by the Illinois Commerce Commission in this proceeding.

4. In addition, at a meeting of the Illinois Commerce Commission on April 4, 2000, certain commissioners expressed interest in comments of affected utilities, and particularly ComEd, with respect to WPS-ESI's application for a certificate of service authority pursuant to Section 16-115 of the Act. ComEd understands that the Commission is operating within the time frame set forth by statute, and needs to issue a decision by April 24, 2000. ComEd is preparing its comments expeditiously and should be able to submit them within the next few days.

5. No other party can adequately represent ComEd's interests in this proceeding.

6. ComEd requests that the following individuals be placed on the official service list and receive copies of all pleadings, notices and correspondence in this proceeding:

Christopher W. Zibart
Heather Jackson
HOPKINS & SUTTER
70 West Madison Street, Suite 4100
Chicago, Illinois 60602
Phone: (312) 558-6600
Fax: (312) 558-6537
E-mail: czibart@hopsut.com
hjackson@hopsut.com

E. Glenn Rippie
COMMONWEALTH EDISON
125 South Clark Street
Chicago, Illinois 60603
Phone: (312) 394-4200
Fax: (312) 394-3950
E-mail: E.Glenn.Rippie@ucm.com

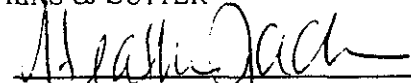
WHEREFORE, ComEd prays that the Hearing Examiner grant ComEd leave to intervene and participate as a party in this proceeding.

Dated: April 10, 2000

Respectfully submitted,

HOPKINS & SUTTER

By:



Attorney for Commonwealth
Edison Company

Christopher W. Zibart
Heather Jackson
HOPKINS & SUTTER
70 West Madison Street
Suite 4100
Chicago, Illinois 60602
(312) 558-6600

STATE OF ILLINOIS

COUNTY OF COOK

SS.

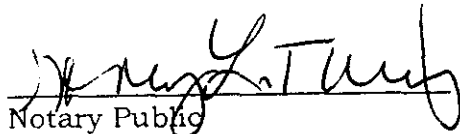
VERIFICATION

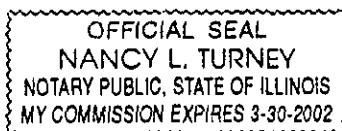
I, Heather Jackson, being first duly sworn, state that I am an attorney for Commonwealth Edison Company, that I am authorized to make this Verification on its behalf, that I have read the foregoing Petition For Leave To Intervene of Commonwealth Edison Company, that I have knowledge of the facts stated therein, and that the same are true and correct to the best of my knowledge, information and belief.


Heather Jackson

Attorney for Commonwealth Edison
Company

SUBSCRIBED and SWORN to before me
this 10th day of April, 2000.


Notary Public



STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

WPS ENERGY SERVICES, INC. :
 :
Application for Certificate of Service : Docket No. 00-0199
Authority Under Section 16-115 of :
the Public Utilities Act. :

NOTICE OF FILING

To: See attached service list

PLEASE TAKE NOTICE that on this date we have filed with the Chief Clerk of the Illinois Commerce Commission, 527 East Capitol Avenue, Springfield, Illinois 62701, the original and two copies of Commonwealth Edison Company's Petition For Leave To Intervene.

Dated: April 10, 2000

By: Heather Jackson
An Attorney for Commonwealth
Edison Company

Christopher W. Zibart
Heather Jackson
Hopkins & Sutter
70 West Madison Street
Suite 4100
Chicago, Illinois 60602
(312) 558-6600

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the Petition For Leave To Intervene of Commonwealth Edison Company upon the persons on the attached service list, served as indicated, on this 10th day of April, 2000.


Heather Jackson

Attorney for Commonwealth Edison
Company

ICC Docket No. 00-0199
Service List

Hearing Examiner Larry Jones
ILLINOIS COMMERCE COMMISSION
527 East Capitol Avenue
Springfield, Illinois 62701
(Federal Express)

Eric Robertson
LUEDERS, ROBERTSON & KONZEN
1939 Delmar Avenue
Granite City, Illinois 62040
(Federal Express)

Chris Matthiesen & Mark Radtke
WPS ENERGY SERVICES, INC.
677 Baeten Road
Green Bay, Wisconsin 54304
(Federal Express)